

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

LEONARDO ESTEPAR, et al.,
Plaintiffs,

v.

CIVIL NO: 03-1538 (DRD)

METROPOLITANO HOSPITAL,
et al.,
Defendants.

ORDER

Pending before the Court is the plaintiffs' *Motion for Voluntary Dismissal With Prejudice Regarding Co-defendant Francisco Perez de Leon* (Docket No. 31) moving the Court to dismiss the instant claim against co-defendant Dr. Francisco Perez de Leon because the plaintiffs have no further interest in pursuing their claims against said co-defendant. The plaintiffs' affirm that the instant dismissal cannot be understood or extended to exonerate the other defendants in any way. Finally, plaintiffs request that the instant dismissal be entered without the imposition of costs and/or attorneys fees.

Although the Court usually refrains from issuing a partial judgment, it is deemed that the instant dismissal shall not foster piecemeal appeals hence the Court is not precluded from granting the instant voluntary dismissal and consequently entering partial judgment. See Nichols v. Cadle Co., 101 F.3d 1448, 1449 (1st Cir. 1996) ("piecemeal appellate review invites mischief. Because the practice poses a host of potential problems we have warned, time and again, that Rule 54(b) should be used sparingly."); Zayas-Green v. Casaine, 906 F.2d 18, 21 (1st Cir. 1990) ("This final judgment rule . . . furthers 'the strong congressional policy against piecemeal review.'" Id. (quoting In re Continental Investment Corp., 637 F.2d 1, 3 (1st Cir. 1980)); Comite Pro Rescate De La Salud v. Puerto Rico Aqueduct and Sewer Authority, 888 F.2d 180, 183 (1st Cir. 1989); Consolidated Rail Corp v. Fore River Ry. Co., 861 F.2d 322, 325 (1st Cir. 1988); Spiegel v. Trustees of Tufts Coll., 843 F.2d 38, 43 (1st Cir. 1988); Santa Maria v. Owens-Ill., Inc., 808 F.2d 848, 854 (1st Cir. 1986)); see also United States v. Nixon, 418 U.S. 683, 690 (1974).

The Court hereby **GRANTS** plaintiffs' *Motion for Voluntary Dismissal With Prejudice Regarding Co-defendant Francisco Perez de Leon* (Docket No. 31) and **DISMISSES** plaintiffs' claims against co-defendant Dr. Francisco Perez de Leon **WITH PREJUDICE**. **Partial Judgment** shall be entered accordingly.

IT IS SO ORDERED.

In San Juan, Puerto Rico this 8th day of June 2005.

S/DANIEL R. DOMINGUEZ
DANIEL R. DOMINGUEZ
U.S. DISTRICT JUDGE